

ESTTA Tracking number: **ESTTA266851**

Filing date: **02/16/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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|---------------------------|--|
| Proceeding | 91188271 |
| Party | Defendant Nzyma, LLC |
| Correspondence Address | Christopher M. Parent Brownstein Hyatt Farber Schreck, P.C. 410 17th Street, Suite 2200 Denver, CO 80202 UNITED STATES |
| Submission | Answer |
| Filer's Name | Christopher M. Parent |
| Filer's e-mail | cparent@bhfs.com |
| Signature | /christophermparent/ |
| Date | 02/16/2009 |
| Attachments | Answer.PDF (3 pages)(22614 bytes) |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of the Trademark Application Serial No. 77/334,797
For the Trademark: CIRCARDIA in International Class 5
Published in the Official Gazette on September 23, 2008

Neurim Pharmaceuticals
Opposer

v.

Nzyma, LLC
Applicant

OPPOSITION NO. 91188271

ANSWER TO NOTICE OF OPPOSITION

In the above-referenced opposition to Serial Number 77/334,797 for the mark CIRCARDIA, the applicant, Nzyma, LLC ("Applicant"), answers the allegations in the Notice of Opposition as follows:

1. Applicant admits the allegations in Paragraph 1.
2. Applicant is without sufficient information to form a belief as to the allegations in Paragraph 2, and therefore denies the same.
3. Applicant admits the allegations in Paragraph 3.
4. Applicant denies the allegations in Paragraph 4.
5. Applicant denies the allegations in Paragraph 5.
6. Applicant denies the allegations in Paragraph 6.
7. Applicant denies the allegations in Paragraph 7.
8. Applicant denies the allegations in Paragraph 8.

AFFIRMATIVE DEFENSES

1. Opposer's claims are barred because the Notice of Opposition fails to state a claim for which relief can be granted.
2. Opposer's claims are barred because Opposer's rights, if any, in the United States for the trademark, CIRCADIN, have been abandoned as the mark has not been used in commerce in the United States.
3. Opposer's claims are barred because there is no likelihood of confusion between Opposer's CIRCADIN mark, and Applicant's CIRCARDIA mark.

WHEREFORE, Applicant prays for judgment dismissing the opposition with prejudice.

Respectfully submitted,

Dated: February 16, 2009

By: Christopher M. Parent
Christopher M. Parent
Attorney for Applicant
Brownstein Hyatt Farber Schreck, LLP
410 17th Street
Suite 2200
Denver, CO 80202
T: 303.223.1148
F: 303.223.0948


PROOF OF SERVICE

Christopher M. Parent, an attorney at Brownstein Hyatt Farber Schreck, LLP, says that on February 17, 2009, he served a copy of this ANSWER TO NOTICE OF OPPOSITION upon:

Lawrence E. Abelman
Abelman, Frayne & Schwab
666 Third Avenue
New York, New York 10017

by enclosing the same in a First Class postage paid envelope and depositing it in the U.S. mail.

I declare that the statement above is true to the best of my information, knowledge and belief.



Christopher M. Parent